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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 JUSTIN EDMISTEN,

Case No. 3:21-cv-00517-LRH-WGC

10 Petitioner,

ORDER

11 v.

12 WILLIAM L. GITTERE, et al.,

13 Respondents.

14 Petitioner has submitted a *pro se* petition for writ of habeas corpus, pursuant to
15 28 U.S.C. § 2254 (ECF No. 1-1). Petitioner has not submitted an application to proceed
16 *in forma pauperis* or paid the filing fee. Accordingly, this matter has not been properly
17 commenced. 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2.

18 Thus, the present action will be dismissed without prejudice to the filing of a new
19 petition in a new action with either the \$5.00 filing fee or a completed application to
20 proceed *in forma pauperis* on the proper form with both an inmate account statement for
21 the past six months and a properly executed financial certificate.

22 It does not appear from the papers presented that a dismissal without prejudice
23 will materially affect a later analysis of any timeliness issue with regard to a new action
24 filed in a timely manner.¹ Petitioner at all times remains responsible for properly
25 exhausting his claims, for calculating the running of the federal limitation period as
26 applied to his case, and for properly commencing a timely-filed federal habeas action.

27 _____
28 ¹ Petitioner includes with his submission copies of several state-court proceedings and orders, including
the Nevada Court of Appeals' December 9, 2021 order affirming the denial of his state postconviction
petition. See Case No. 83145.

If petitioner files a new petition in the future in a new case, he is urged to briefly and clearly state the factual basis for each claimed federal constitutional violation.

IT IS THEREFORE ORDERED that the Clerk detach and file the petition (ECF No. 1-1).

IT IS FURTHER ORDERED that this action is dismissed without prejudice to the filing of a new petition in a new action with a properly completed application form to proceed *in forma pauperis*.

IT IS FURTHER ORDERED that a certificate of appealability is denied, as jurists of reason would not find the court's dismissal of this improperly commenced action without prejudice to be debatable or incorrect.

IT IS FURTHER ORDERED that the Clerk **send** to petitioner one copy of this court's form § 2254 habeas corpus petition, one copy of the application to proceed *in forma pauperis* with instructions, and one copy of the papers he submitted in this action.

IT IS FURTHER ORDERED that the Clerk enter judgment accordingly and close this case.

DATED: 2 February 2022.



LARRY H. HICKS
UNITED STATES DISTRICT JUDGE